



**Senator Ted W. Lieu**  
**28th Senate District**

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# **SB 921**

## **National Guard Inspector General**

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### **Summary**

SB 921 would establish the California Military Department Inspector General and the California Military Whistleblower Protection Act.

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### **Background**

The California Military Department is a unique state agency whose personnel may fall under both federal oversight, applied by various statutes and federal military regulations, as well as state laws and regulations under the Military and Veterans Code, depending on their current status.

One such status is 'state active duty.' The state active duty (SAD) force is at all times a state government entity operating under the control of the governor, as commander in chief, and the Adjutant General (TAG), who serves in a dual capacity as the director of the department and commander of all state military forces. A member of the department falls under the sole jurisdiction of the governor and the TAG when they are on SAD. Under California's constitution, SAD members are exempt from civil service. The department also employs many civil service personnel who report to SAD supervisors.

SAD status is different in several aspects from other service statuses. For example, one important command system in the military is the Inspector General (IG). Key functions for an IG include inspections, assistance, investigations, teaching and training as well as the implementation of the federal IG and whistleblower protections acts. The federal IG system is required by federal law to receive and

investigate complaints of fraud, waste and abuse, and provides investigation into complaints of whistleblower retaliation. However, the Federal Inspector General Act of 1978 and the Federal Military Whistleblower Protection Act don't automatically apply to SAD personnel.

Military and Veterans Code Sections 100 and 101 incorporate all acts and regulations of the United States and its Congress, including the federal IG and whistleblower protections acts, as long as the laws and regulations are not inconsistent with California's goals and constitutional rights as a state. These sections give great trust and leeway to the Adjutant General, including which federal laws apply and when.

Unfortunately, records show past department leaders have abused their power. Many of the egregious violations uncovered by both the Legislature and media reports were due to the inability of the department to exercise appropriate oversight. Complaints have also surfaced about the lack of internal controls and retaliation against whistleblowers. Until 2006, California didn't even have an IG for their SAD system.

Additionally, complaints regarding misconduct by senior officials within the department, including the TAG, are referred to the department itself, creating an inherent conflict of interest.

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### **Why SB 921 Is Needed**

Senate Bill 921 would restore confidence in the state's IG system by granting SAD personnel all the protections afforded by federal law. This bill would ensure that SAD personnel are safe to communicate and report waste, fraud, abuse of authority, violations of law or threats to the public health and safety without fear of retaliation. SB 921 also provides important protections to civil service employees at the department who report to SAD personnel by making retaliation by SAD members explicitly illegal.

In addition, SB 921 gives the state IG position further independence by requiring that the position be appointed by the Governor.

The state IG position is modeled after and mirrors the responsibilities of the federal IG.

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#### **Specifically, SB 921:**

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- Requires the Governor appoint the California Military Department Inspector General.
- Establishes minimum eligibility requirements, including that the inspector general serve on SAD at the grade of O-6, or Colonel, and have the same minimum qualifications for service as the Assistant Adjutant General (ATAG).
- Provides statutory authority to investigate complaints or allegations of the following:
  - A violation of law, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.
  - Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.
- Requires referral of complaints or allegations to the National Guard Bureau concerning the TAG and the ATAG.
- Creates the California Military

Whistleblower Protection Act into the Military and Veterans Code.

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#### **For More Information**

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